

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

**RUSSELL GEISSLER**, *individually and on  
behalf of others similarly situated*,

Plaintiff,

vs.

**BRYAN P. STIRLING**, Director of the South  
Carolina Department of Corrections (SCDC), *in  
his official capacity*; and **JOHN B. MCREE**,  
**M.D.**, Division Director of Health and  
Professional Services for SCDC; **DIVYA**  
**AHUJA, M.D.**; **JAMES GRUBBS, M.D.**; **AND**  
**ANSAL SHAH, M.D.**, *in their individual  
capacities*,

Defendants.

Case No.: 4:17-cv-01746-MBS-TER

**PLAINTIFF’S MOTION FOR LEAVE TO  
FILE AMENDED COMPLAINT  
(UNOPPOSED)**

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff Russell Geissler moves the Court for leave to file a Third Amended Complaint, a draft copy of which is attached hereto as Exhibit 1.<sup>1</sup> Although titled the Third Amended Complaint, this is the first amendment Plaintiff’s counsel has sought to make since filing the post-appointment complaint.

The amended complaint removes three defendants—Drs. Ahuja, Grubbs, and Shah. Based on information collected during the discovery process, it has come to light that these three doctors are not appropriate defendants for Plaintiff Geissler’s § 1983 damages claim because they did not exercise or possess decision-making authority with regard to Plaintiff Geissler’s HCV treatment, or lack thereof. *See* Exhibit 2, Affidavits of James Grubbs, M.D. and Ansal Shah, M.D.

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<sup>1</sup> Rule 15 provides that after a responsive pleading is served, “a party may amend the party’s pleading only by leave of court . . . and leave shall be freely given when justice so requires.” Fed. R. Civ. P. 15.

The amended complaint adds two plaintiffs as additional putative class representatives *for the injunctive claims only*: Bernard Bagley and Willie James Jackson. Mr. Bagley was born between 1945 and 1965, received a blood transfusion in 1977, and has experienced several symptoms of chronic HCV. SCDC has repeatedly denied Mr. Bagley's requests to be tested for HCV. Mr. Jackson was diagnosed with HCV in 2009 while incarcerated in SCDC. SCDC has repeatedly denied Mr. Jackson's requests for treatment.

The amended complaint maintains the counts in the current complaint, but it adds and modifies allegations to account for information obtained during discovery. A redlined version of the complaint showing those changes is attached as Exhibit 3.

Counsel for Plaintiff have conferred with counsel for all defendants and are authorized to state that the defendants do not oppose this motion.

Respectfully submitted,

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Charleston, South Carolina

\* unopposed motion for *pro hac* admission forthcoming